

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ARTURO TORRES OCHOA,

Plaintiff,

vs

HALL, et al.,

Defendants.

3:12-cv-00277-RCJ-WGC

ORDER

This is a civil rights action submitted by the plaintiff a Nevada prisoner. Plaintiff Ochoa has been banned from filing actions *in forma pauperis* unless he can show he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g) Ochoa's complaint indicates in the "Nature of the Case" section that he had his head smashed against a desk, was tortured and mistreated by correctional staff and his caseworker has transferred him several times.¹ He seems to indicate that the transfers may be related to disciplinary sanctions. He does not indicate any time-frame that these events were to have occurred.

The actual claims raised in the complaint are that various named correctional officers, in the course of a conspiracy, tampered with his food during the last four days of April, 2012 and the first four

¹ The Court notes that it is very familiar with the plaintiff who files many civil actions that generally fail to state claims or even present intelligible facts of a logical course of events. Thus, the three-strike designation. Plaintiff's mental status is called into question by the documents he has submitted and the allegations raised in many of the previous actions. The claims raised in this complaint are similar in nature to other complaints filed near the same time, which actions have been dismissed.

1 days of May, 2012, causing him to become sick including "lack of breathe - itching - sneezes - nauseate -
2 vomit - stomache [sic] and headache, heart throbbing - losing vision and stress. Back pains" (spelling
3 and syntax in the original). Another claim indicates that on May 3, 2012, Celiliane "delivery the legal
4 mails, stared at me in my eye, then start check my legal mail in the way she was reading the mail, then
5 I asked her, what is the matter, Ceciliane answers, scanning;" (spelling and syntax in the original).
6 Complaint, Count VI, p. 10.

7 While the claims raised indicate physical symptoms which occurred after eating near the time
8 he submitted his complaint, these claims do not indicate an imminent danger of "serious harm," as
9 required to proceed without pre-paying the filing fee. Since the time the complaint was submitted, he
10 has not corresponded with the Court or indicated that the purported food tampering continues. Because
11 plaintiff has not stated claims showing an imminent danger of serious harm and he has not paid the filing
12 fee, the matter shall be dismissed without prejudice.

13 **IT IS THEREFORE ORDERED** that the motion to proceed *in forma pauperis* is **DENIED**.
14 The complaint (received May 24, 2012) shall be **FILED**.

15 **IT IS FURTHER ORDERED** that the Complaint is **DISMISSED WITHOUT PREJUDICE**
16 for failing to pay the filing fee as required by 28 U.S.C. § 1915(g). The Clerk shall enter judgment
17 accordingly.

18 Dated, this 28th day of January, 2013.

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UNITED STATES CHIEF DISTRICT JUDGE